

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

United States of America)	
)	Cr. No. 6:06-393-HMH
vs.)	
)	OPINION & ORDER
Luis Tejeda-Ramirez,)	
)	
Movant.)	

This matter is before the court on remand from the United States Court of Appeals for the Fourth Circuit. United States v. Tejeda-Ramirez, No. 10-6188, 2010 WL 2182187, at *2 (4th Cir. June 2, 2010) (unpublished). On June 2, 2010, the Fourth Circuit granted Luis Tejeda-Ramirez (“Tejeda-Ramirez”), “a certificate of appealability on the issue of whether appellate counsel failed to timely inform Tejeda-Ramirez in writing of his right to file a petition for writ of certiorari after receiving an adverse decision from [the Fourth Circuit] and remand[ed the case to this court] for the purpose of making factual findings.” Id. The Fourth Circuit found that “[w]hile the district court correctly found it was without authority to order an appropriate remedy, recalling the mandate and reissuing this court’s opinion, it can make factual findings in reference to Tejeda-Ramirez’s claim.” Id.

On July 27, 2010, the court ordered the Government to respond to the motion within thirty days and provide an affidavit from Tejeda-Ramirez’s appellate counsel regarding the issue of whether appellate counsel failed to timely inform Tejeda-Ramirez of his right to file a petition for writ of certiorari. On August 25, 2010, the Government filed a response and affidavit from Tejeda-Ramirez’s appellate counsel, Robert Sneed (“Sneed”).

Local Rule 46(d) of the Fourth Circuit and the Fourth Circuit's Plan for Implementation of the Criminal Justice Act of 1964 requires that appointed counsel inform clients in writing of the right to petition for certiorari. 4th Cir. R. 46(d) ("If the appellant requests in writing that a petition for a writ of certiorari be filed and in counsel's considered judgment there are grounds for seeking Supreme Court review, counsel shall file such a petition."); Proffitt v. United States, 549 F.2d 910, 911-13 (4th Cir. 1976). Sneed provided copies of two letters to Tejeda-Ramirez in support of his affidavit. The letters dated December 20, 2007 and January 18, 2008, timely informed Tejeda-Ramirez of his right to file a petition for writ of certiorari after receiving an adverse decision from the Fourth Circuit. (Gov't Resp. Ex. 1 (Sneed Aff. Attach. (Letters)).) The Fourth Circuit's decision affirming Tejeda-Ramirez's conviction and sentence was issued December 4, 2007. Tejeda-Ramirez's deadline for filing a petition for writ of certiorari was March 1, 2008. Based on the foregoing, the court finds that Sneed informed Tejeda-Ramirez in writing of his right to file a petition for writ of certiorari. As such, Tejeda-Ramirez did not "receive ineffective assistance of counsel in this regard." Tejeda-Ramirez, 2010 WL 2182187, at *2.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
August 27, 2010

NOTICE OF RIGHT TO APPEAL

The Movant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.